

APPENDIX D

Psychiatric Inpatient Treatment of Minors Act: Section by Section Analysis

PSYCHIATRIC INPATIENT TREATMENT OF MINORS ACT

Section By Section Analysis

I. Section 16.1-275

Section 16.1-275 is amended in two ways. A minor who is being considered by a judge for admission to a psychiatric hospital for an evaluation to provide a recommendation for the disposition of the child must first receive an examination by a mental health professional, as under current law. The new changes are:

- The evaluator must make written findings that the evaluation can only be done in an inpatient setting and not by a professional in the community; and
- The minor may be admitted to a state psychiatric hospital for up to ten days (no longer than thirty days) for the evaluation.

II. Section 16.1-336. Definitions

The most significant definitions are the following

- “Consent” means the voluntary, expressed and informed agreement to treatment. The admission evaluator must determine whether a minor age 14 or over is capable of giving informed consent.
- “Parent” means a biological or adoptive parent who has custody or with whom the minor regularly resides, a person with legal custody, a judicially appointed legal guardian, or the director or designee of a local department of social services, if the child is in social services custody.
- “Qualified Evaluator” sets a hierarchy of persons who can perform evaluations for hospitalization. Licensed mental health professionals or community services board persons who conduct the evaluations must be skilled in child mental health and familiar with this Code Section.

III. Section 16.1-338. Voluntary Admissions

This Section governs the voluntary admission of minors younger than fourteen and non-objecting minors fourteen and over to psychiatric hospitals.

- A minor under fourteen years old may be admitted by their parent's consent.
- A minor fourteen or over may be admitted by joint consent of the minor and their parent.
- An examination must be conducted by a qualified evaluator to determine whether hospitalization is required. The evaluator must make written findings that four conditions specified in this Section are met in order to approve the hospitalization.

For admission to a state psychiatric hospital, the evaluation is done by the community services board prior to admission.

For admission to a private sector hospital, the evaluation must take place within 48 hours after admission by a qualified evaluator.

- Within ten days of admission, a treatment plan must be developed. Both the minor and their parent must be involved in making the plan. Details of what should be in the plan are specified in Subsection C.
- If the parent who consented to admission changes their mind, or if a minor fourteen or over rescinds their consent, the minor must be discharged within 48 hours, unless admission is authorized by other procedures in this Act.
- A minor can be admitted voluntarily for up to ninety days without further authorization.

IV. Section 16.1-339. Voluntary Admissions of Objecting Minors

This Section governs the admission of a minor who is fourteen or older and who objects to voluntary admission, when their parent has consented to admission and a qualified evaluator has approved the admission based upon Voluntary Admission criteria. The minor may be admitted for up to 72 hours, over their objection, pending an independent evaluation and a court review.

- Within 24 hours of admission, an evaluation will take place by an independent evaluator designated by the community services board. The hospital petitions for a court review.
- The evaluator must determine whether the minor meets more stringent criteria for admission. These criteria are the three involuntary commitment criteria.
- A Juvenile and Domestic Relations Court Judge appoints a guardian ad litem. Together they review the evaluation information and ascertain the views of the minor and others.

- The Judge, within 72 hours of the minor's admission, must make one of three determinations.

The minor should not be hospitalized.

The minor should be hospitalized over their objection and under their parent's consent.

The information is insufficient and an involuntary commitment hearing should take place to resolve the matter.

- The provisions for making a treatment plan and procedures when the minor's parent revokes consent for admission are the same as 16.1-338.

V. 16.1-340. Emergency Admissions

Emergency admissions procedures for minors are the same as for adults and are found in Section 37.1-67.1 of the Virginia Code.

- A Judge or Magistrate may issue an emergency custody order, based upon a petition that a minor is probably mentally ill and requires hospitalization. A law enforcement officer does not require a Judge's order to bring someone in to be evaluated who they think are mentally ill.
- The community services board or someone designated by the CSB must conduct an evaluation within 4 hours to determine whether emergency hospitalization is warranted.
- The Judge or Magistrate may then issue a Temporary Detention Order (TDO) and have the minor brought to a psychiatric hospital for emergency admission and treatment.
- Within 72 hours of the issuance of the TDO an involuntary commitment hearing must be held, unless the minor is admitted voluntarily.

VI. 16.1-341 through 16.1-345. Involuntary Commitment

The procedures are very similar to Virginia Code for adults. The significant differences are noted below.

- A parent or other reasonable adult may file a petition with the Juvenile and Domestic Relations District Court. A hearing must take place no sooner than 24 hours and no later

than 72 hours after the petition is filed, unless the court decides that the petition should be dismissed.

- The Judge shall appoint a lawyer for the child at least 24 hours before the hearing.
- The community services board will do an evaluation of the minor to determine whether the minor meets the three criteria for involuntary commitment. These criteria are more specific than in adult law. The evaluation report will be submitted to the court at least 24 hours before the hearing.
- The attorney for the minor will review all material and interview witnesses in order to represent the wishes of the minor during the hearing.
- If the Judge determines that the minor meets involuntary commitment criteria, then the Judge may order hospitalization for up to ninety days.

16.1-346. Treatment Plan and Discharges

This Section governs procedures that take place once a minor is involuntarily committed to a psychiatric hospital.

- Within ten days of admission, a treatment plan must be developed. Both the minor and their parent must be involved in making the plan. Details of what should be in the plan are specified in this Section.
- A minor must be discharged from the hospital when they no longer meet commitment criteria.

16.1-346.1. Predischarge Plans

This Section specifies the predischarge planning process and plan that must be developed before a minor leaves a hospital.

- The plan must involve the minor and the minor's parent(s).
- Details that must be included in the plan are specified in this Section

XI. 16.1-347. Fees and Expenses

Qualified evaluators who are not employed by the Commonwealth and who do evaluations for involuntary commitment proceedings, shall be compensated as specified in 3789. Other evaluations are considered a cost of treatment and cannot be billed to the Commonwealth.

X. 16.1-348. Availability of a Judge

The Chief Judge of every Juvenile and Domestic Relations District Court must ensure that a Judge is available at all times to do the hearings and reviews in this Article.